

ENVIRONMENTAL PROTECTION COMMISSION
GENERAL MEETING & PUBLIC HEARING
MEETING MINUTES
JUNE 17, 2004

The meeting was called to order at 7:35 p.m. in Room 119 of the Darien Town Hall by Ms. Cameron, who sat as acting Chairman until Mr. Hillman's arrival.

Commission Members Present: Peter Hillman, Reese Hutchison, Susan Cameron, Robert E. Kenyon, Ellen Kirby, and Nina Miller

Commission Staff Present: Nancy Sarner

Court Monitor: Bonnie Syat

General Meeting:

Old Business:

Ms. Cameron read the following agenda item:

Continuation of EPC-32-2004, Lance Zimmerman, A.I.A., on behalf of Mark & Patricia Dailey, 59 Holly Lane, proposing fill and regrading, installation of a stone retaining wall, landscaping and wetland plantings, and perform related site development activities within a regulated area. The property is located on the north side of Holly Lane, approximately 815 feet east of the intersection of Holly Lane and Hollow Tree Ridge Road, shown on the Tax Assessor's Map #9 as Lot #133.

Lance Zimmerman, A.I.A., reported that, since the last meeting, the wetlands had been reflagged and the silt fence had been re-staked, the setback area had been cleaned, including the removal of boats, and the unauthorized drainage pipe within the setback had been removed. He said that the proposed retaining wall would be approximately 25' from the wetlands, and the area beyond the wall would be a natural planted area and not maintained as lawn. He added that a planting list has been provided and incorporates the use of seed mix, understory plantings and low plantings. He explained that the Daileys proposed the fill to level the yard to create a play area, but not install a play structure. Mr. Zimmerman said that the leveling of the area should slow runoff and the wall would act as a barrier to the wetlands. Mr. Zimmerman said that there would be additional plantings added to the area above the wall, as well.

Mr. Zimmerman reported that McChord Engineering designed the retention system for the ongoing site development. The fill for the existing terrace was not placed within the 50' setback area, but the newly proposed terrace would encroach upon the regulated area.

Mr. Hutchison asked about the wall construction. Mr. Zimmerman replied that the 3' high wall would be constructed with concrete in back and be dry laid in appearance, and would have weep holes to allow percolation through it. In a response to a question, Mr. Zimmerman explained that the top of the wall would be level with the ground.

Mr. Zimmerman asked if the 200- to 300-pound boulders placed within the wetland area by a landscaper could be removed with a small machine. It was the consensus of the Commission that the boulders be left in place to minimize disturbance.

In response to the Commission's concern that the 24" Ash located to the west of the wall along the rear, or northern, property line would be impacted by the wall, Mr. Zimmerman offered to include the installation of a tree well to protect the tree.

Ms. Kirby inquired about the plantings proposed above the wall. Mr. Zimmerman said that approximately 3' of plantings would be placed along the top of the retaining wall, and that steps would be created to allow access to the lower.

Upon further discussion of the materials and plans presented, the following motion was made: That the Commission approve with stipulations Wetland Permit Application #EPC-32-2004. The application was approved with the following conditions:

1. The 24" Ash located along the northern, or rear, property boundary, that would have its root system immediately adjacent to the proposed stonewall, shall be preserved. Therefore, a tree well shall be installed to protect the tree.
2. The boulders that have been improperly placed within the wetland areas shall be left to avoid further disturbance to the resource and buffer areas.

The work shall conform to the following plans:

1. The regrading and wall construction plan by Lance Zimmerman, A.I.A., last revised 6-10-04, overlaid on the Zoning Location & Topographic Survey of #59 Holly Lane by William W. Seymour & Associates, last revised June 2, 2003;
2. The planting plan for the Dailey Residence by Pine Meadow Gardens, undated, received by the Planning and Zoning Office on June 10, 2004; and
3. The drainage plan entitled "Site Drainage Plan, 59 Holly Lane, Darien, Connecticut; Prepared for Mark S. and Patricia L. Dailey, Darien, Connecticut," Sheet SE1, by McChord Engineering Associates, Inc., dated May 17, 2004, last revised 5-17-04.

The motion was made by Ms. Cameron, seconded by Ms. Miller, and unanimously approved. Mr. Hillman was not present for the vote.

New Business:

Chairman Cameron read the following agenda item:

EPC-43-2004, Colin & Eleanor McKay, 19 Winding Lane, proposing an addition, patio, septic system, and tree removal, and perform related site development activities within a regulated area. The proposed swimming pool has been withdrawn by the applicants. The property is located on the northwest side of Winding Lane approximately 975 feet north of the intersection of Winding Lane and Arrowhead Way, shown on Tax Assessor's Map #64 as Lot #8.

John Whitcomb, P.E., of Martinez-Couch & Associates, presented the application on behalf of Mr. and Mrs. McKay. Mr. Whitcomb explained that Soil Scientist Thomas Pietras flagged the wetland boundary in the field. A watercourse connecting the two wetland pockets has been piped.

Mr. Whitcomb explained that the original proposal requested the construction of an addition and new deck, extension of the existing patio, and installation of an inground swimming pool. He said that after receiving a letter from the Commission, changes were made to the proposal. He explained that deck extension was eliminated since it was the construction closest to the wetlands, and the inground pool was eliminated. He said that the deck is still proposed. He explained that the majority of proposed disturbance within the regulated area is associated with the installation of the sewer force main to rear septic area, which would be constructed through a lawn area and outside wetland soils. He said that the trench would be 4' deep for the installation of the 2" flexible plastic sewer line. He explained that they decided to install the new septic system now because the existing septic is past its life expectancy and does not meet the current code.

Mr. Whitcomb reported that all the roof leaders would open onto grade, and that the one existing pipe encroaching into the wetlands would be removed.

Mr. Whitcomb stated that test pits showed there is approximately 2' of natural soils to ledge, which is a challenge for the septic installation. He explained that 4' of fill is therefore required for the septic area, and that the fill would decrease the amount of runoff from the property. He added that minimum drainage impact is anticipated. He said that a ± 50 gallons stormwater unit could be installed to accommodate a 50-year storm, but that they were not certain it would work because of the ledge, and may not be considered necessary with the minor increase of runoff proposed.

Ms. Miller clarified that the pool is no longer part of the application, but that the owners may still be interested in having it approved. Ms. Cameron said that the owners could reapply for the swimming pool if they are still interested.

Ms. Cameron asked if 4' of fill is typically required for septic installations. Mr. Whitcomb replied that a system needs 4' of soil below the bottom of the trenches which are approximately 12" and need at least 1" of soil above them.

Mr. Whitcomb noted that the existing house is approximately 25' to 30' from the wetlands, and the addition bumps out 15'.

Upon further discussion of the materials and plans presented, the following motion was made: That the Commission approve modified Wetland Permit Application #EPC-43-2004. The original proposal has been modified to withdraw the swimming pool. The work is approved as shown on the plan entitled "Site Plan – Subsurface Sewage Disposal System Design; 19 Winding Lane, Darien Connecticut 06820; Owner/Applicant: Colin J. & Eleanor M. McKay, 19 Winding Lane, Darien, CT 06820" by Martinez-Couch & Associates, LLC, dated 04/21/04, last revised 5/24/04. The motion was made by Ms. Cameron and seconded by Ms. Miller. Voting in favor of the motion was Ms. Cameron, Ms. Miller, Mr. Hutchison, Mr. Kenyon, and Ms. Kirby. There were no votes in opposition to the motion. Mr. Hillman had joined the meeting during the discussion of the application and abstained from voting. The motion was passed by a vote of 5 to 0, with 1 abstention.

Chairman Hillman read the following agenda item:

EPC-48-2004, Avery & Robert Flowers, 26 Nickerson Lane, proposing landscaping activity, including tree removal and new plantings, and perform related site development activities within a regulated area. The property is located on the northeast side of the cul-de-sac for Nickerson Lane approximately 1,150 feet northwest of the intersection of Nearwater Road and Nickerson Lane, shown on Tax Assessor's Map #52 as Lot #14.

Mrs. Avery Flowers presented her application and addressed questions from the Commission. Mr. Hillman noted that, according to the February 23, 200 soils report by Soil Science and Environmental Services, the wetland soils were found to be remnant wetlands since the soils have been significantly altered from their original condition.

Mrs. Flowers reviewed the application proposal, as shown on the plan submitted with the application. She said that the work would begin with safety pruning of some significant trees. She said she would then like to plant ferns, such as Christmas fern and Ostrich fern, which should grow well in the disturbed wetland area near the driveway. She said that within the northwest portion of the property. She said she wanted to remove some overgrown, spindly Sassafras and replant the area with Dogwood and some Spruce trees. She said that the existing Hemlocks are approximately 20 years old and dead or overgrown with vines. She said she would like to replace them with woodland and wetland plantings. Ms. Cameron agreed that the Hemlocks appear to be crowded and overgrown, and opined that the plan looked good. Ms. Miller commented that the proposed gate would be a nice feature. Mrs. Avery explained that it would allow easier access for the neighborhood children that cross her property.

Upon further discussion of the materials and plans presented, the following motion was made: That the Commission approve Wetland Permit Application #EPC-48-2004 as submitted. The work is approved as shown on the colored sketch and discussed within the narrative, "Addendum to Application for Robert & Avery Flowers, 26 Nickerson Lane, Darien, CT", submitted to the Planning and Zoning Office on May 26, 2004. The motion was made by Mr. Hillman, seconded by Ms. Cameron, and unanimously approved.

Chairman Hillman read the following agenda item:

EPC-49-2004, Jerry & Susan Elliot, 97 Five Mile River Road, proposing razing a garage, constructing new garage and living area, installation of a new septic system, and perform related site development activities within a regulated area. The property is located on the west side of Five Mile River Road approximately 1,975 feet southeast of the intersection of Five Mile River Road and Old Farm Road, shown on Tax Assessor's Map #66 as Lot #23.

Attorney Wilder Gleason presented the application on behalf of Mr. and Mrs. Elliot. Mr. Jerry Elliot was present to address questions from the Commission.

Mr. Hillman asked Atty. Gleason if, similar to the application for the Lee property at 5 North Road, he was objecting to the EPC's jurisdiction over the property. Atty. Gleason said that he was not objecting for the record. He said that he was concerned about receiving an approval because he felt that the application was straightforward. He explained that no work to the primary septic system is proposed, and that a code complying system is shown in case of future failure of the existing system.

Mr. Hillman stated that he had first thought that the application would required a public hearing, but then, after further review, found that it was straightforward. Atty. Gleason stated that a public hearing was held before the Zoning Board of Appeals, and that neighbors had signed off on the proposal.

Mr. Hillman asked the Commission if they felt that the application is complete. Ms. Cameron responded that she felt that the submission was complete but that a public hearing may be necessary. Mr. Hillman asked if the other Commission members felt a hearing should be scheduled. Ms. Cameron noted that the Commission has been scheduling matters located along the Five Mile River to hearings. Atty. Gleason stated that the project proposed only a two-tenths increase in zoning coverage. Mr. Hillman stated that he felt that a hearing was not merited. It was the consensus of the meeting that the General Meeting discussion for the application continue.

Mr. Kenyon inquired to the location of the regulated setback line. Atty. Gleason replied by indicating the areas of the zoning setbacks. Ms. Miller explained to Atty. Gleason that the Commission is interested in the location of the 100' setback as measured from Five Mile River. Atty. Gleason corrected his reply and stated that the setback was located near the front property line, noting that the southern boundary is 104'.

Atty. Gleason stated that the property is a little over a third of an acre, and that the house was built in 1920. He reviewed a copy of a section of Assessor's Map #66. He said that the proposal received a variance from the Zoning Board of Appeals. He noted that part of the existing structure would be pulled back further away from the river, and a second floor would be constructed over the garage.

Mr. Hillman noted that the septic shown is only for code complying area, and that they were reviewing the contingency plan if the existing system failed. Atty. Gleason agreed, and explained that the Health Department requires that the area be shown. He added that the Elliots pump the existing septic system approximately every nine months.

Atty. Gleason said noted that the existing 12 contour showed on the plan, and that they proposed approximately 6" of fill to take garage out of the Flood Zone. He indicated the stockpiling areas on the plan, and explained that they are working with the neighbors regarding parking during construction. He said that the work would be an aesthetic improvement.

Atty. Gleason submitted an environmental study, and explained that the property is located within the lower third of the watershed, so drainage is not a concern. Mr. Kenyon inquired to the driveway. Atty. Gleason replied that the new driveway, like the existing driveway, would be paved. He said that the proposed driveway would pose a little more than a 240 square foot increase in impervious area. Atty. Gleason reviewed that the currently runoff flows toward the driveway, then around the house and across the lawn. Ms. Cameron said she would like to see buffer plantings be added on the seaward side of the driveway. Atty. Gleason explained that the ZBA stipulated that nothing over 4' in height could be planted. Ms. Cameron said that the sheet flow through lawn grass is too fast to provide mitigation. Atty. Gleason asked if pachysandra would be acceptable. Ms. Cameron recommended that low shrubs could also be considered. Mr. Hillman felt that the application worked with the site.

Upon further review and discussion of the materials and plans presented, the following motion was made: That the Commission approve with stipulations the above-referenced application. The application was approved with the following conditions:

1. That a planted buffer area be installed along the seaward side of the new driveway. The plantings may include Pachysandra and/or Salt Spray Rose (*Rosa rugosa*), or other low growing plant selection of your choosing. These plantings are an integral part of this approval; therefore, a Zoning Certificate of Compliance, which is required for a Certificate of Occupancy, shall not be issued until the plantings are completed.
2. That an application be submitted for the future use of the code complying area, or other septic work, to the EPC for review and consideration.

The work is approved as shown on the plan entitled "Zoning Location Survey Prepared for Jerry V. Elliot & Susan S. Elliot, #97 Five Mile River Road, Darien, Connecticut" by William W. Seymour & Associates, dated October 4, 2003, last revised May 20, 2004. The motion was made by Mr. Hutchison, seconded by Mr. Hillman, and unanimously approved.

Public Hearing:

Chairman Hillman read the following agenda item:

EPC-36-2004, Country Club of Darien, 300 Mansfield Avenue, proposing an amendment of the Town's wetland boundary map to reflect a field delineation of the wetlands soils located on the subject property. The property is located on the east side of Mansfield Avenue approximately 1,800 feet north of the intersection of Mansfield Avenue and Buttonwood Lane, shown on Tax Assessor's Map #5 as Lot #40.

and

EPC-37-2004, Country Club of Darien, 300 Mansfield Avenue, proposing demolition of two maintenance sheds and garage (sand shed), paving for parking area to be equipped with a filtered drainage system, placement of a dumpster on a new concrete pad, installation of a water line and underground utilities, widening of the main entry road, installation of fencing and stonewall, drainage improvements, headwall, relocation of tee areas, realign cart path, install new cart path, and plantings, and perform related site development activities within a regulated area. The property is located on the east side of Mansfield Avenue approximately 1,800 feet north of the intersection of Mansfield Avenue and Buttonwood Lane, shown on Tax Assessor's Map #5 as Lot #40.

Atty. Pierson of Pierson Law was joined by Donald Ferlow, LA & PWS, of Stearns & Wheler, LLC. He explained that Mr. Ferlow worked with Soil Scientist Thomas Pietras of Soil Science & Environmental Services to delineate the wetlands on the property. The Country Club of Darien felt it was necessary to conduct a site-wide wetlands delineation because, in the past, the soils were reviewed in a piecemeal manner, as they were required to apply to the EPC for various projects. He said that the firm of Edward J. Frattaroli, Inc. memorialized the flagging in the field, and had indicated the wetland flag numbers on the plans. The map shows the wetland and watercourse areas, and the setback areas. Mr. Hillman said that the new wetland delineation would be included under the Town's annual map update.

Upon further discussion of the plans and reports submitted, the following motion was made: That the Commission accept the soils delineation by Thomas Pietras of Soil Science and

Environmental Services, Inc., as confirmed by Mr. Piertras' March 8, 9 & 10, 2004 report, and shown on the plan entitled "Wetlands Delineation Map, Prepared for Country Club of Darien, Darien, Connecticut" by Edward J. Frattaroli, Inc., dated April 14, 2004. The Town's wetland map shall be amended to reflect the new delineation. The motion was made by Mr. Hillman, seconded by Mr. Hutchison, and unanimously approved.

In reference to Wetland Permit Application #EPC-37-2004, Mr. Hillman read Mr. Lincoln's June 16, 2004 letter, which expressed concern that the stormwater management plan had not been provided with the application. Ms. Sarner said that the report was requested within her April 21, 2004 letter to the Country Club of Darien. Ms. Cameron said that the application is therefore incomplete. Mr. John Pugliesi of Edward J. Frattaroli, Inc. said that the plans shown drainage as requested by the letter. He said that the report referred to by Mr. Kenyon was being finished, and changes were being made, and that he will try to complete it in time for the Planning and Zoning Commission (PZC) meeting. Ms. Sarner clarified that the April 21, 2004 letter specifically requests that a drainage report be provided, and explained that the EPC is requiring the same information that the applicant plans to provide to the PZC.

Ms. Cameron reported that the golf course would be closed for a year. Atty. Pierson said that he felt it was not relevant to the EPC review. He explained that the maintenance building is within the wetland setback area. The issue before the EPC do not relate to Mr. Lincoln's letter. Ms. Cameron asked if the construction to the main entrance roadway was needed to provide better access to the kitchen. Mr. Hutchison noted that there is no driveway around the building. Atty. Pierson said that the maintenance accessway off of Brookside Road is used to bring in sod and materials so they do not need to use the main entrance. He explained that Mr. Lincoln's property is located on the other side of the easement area, and that the Club is not requesting permission to do anything within the regulated area near Mr. Lincoln's property. He added that if impact to his property had been proposed, they would mitigate.

Mr. Hillman stated that the bottom line is a stormwater drainage report had not been submitted, and that although Mr. Pugliesi says it is in the works, the Commission wants to review it prior to making a decision. He said that they could continue questions tonight but feels they must keep the discussion open until the report is submitted. The other commission members agreed. Mr. Pugliesi stated that the topography and drainage for the watershed, which includes a series of ponds, must be reviewed for the analysis. He said that the drainage analysis for the maintenance area is completed, but that he did not want to submit a piecemeal report. Mr. Hillman explained that the Commission can look beyond the 50' setback to determine wetland impacts and that the Commission also serves as the Town's Conservation Commission. He added that there would be the addition concern that concern that, if they do not review all necessary materials, there would be cause for an appeal. Mr. Pugliesi said that the report would be ready.

Ms. Cameron said that that review of alternatives is also missing, especially regarding the main entrance. Atty. Pierson said have not reached the discussion of the main entrance under their presentation yet. He said that they have some alternatives that had been looked at, and that another would be ready within a week. He said that they could postpone the discussion to allow time for the EPC review to review the alternatives. Mr. Hillman and Mr. Hutchison agreed, noting that it would let the public have the opportunity to review the new materials before the hearing continuation.

After being recognized by the Chair, Charles Douglas addressed the Commission. Mr. Douglas explained that he was concerned with the maintenance-shed renovation and redistributed his May 19, 2004 letter to the Commission. Mr. Hillman asked for a verbal summary of the letter. Mr. Douglas the letter pertained to environmental concerns shared by him and other neighbors he had spoken with. Mr. Hillman asked if Mr. Douglas' concerns were triggered by what had happened at Woodway Country Club, referring to the other club's problems with asbestos. Atty. William Hennessey and Tim O'Neill said that Mr. Douglas does not own any of the adjoining building lots, but a deed restricted open space parcel near the Brookside Road maintenance entrance. Mr. Douglas distributed site photographs showing vehicles leaking petrol chemicals, materials dumped within the wetlands near the maintenance shed, a diesel tank, grass clippings within the wetlands, rusty drums, and other assorted containers and drums near the wetlands. Ms. Cameron noted that she understands that the Country Club would address the faults of the existing maintenance area under the application. Mr. Hillman asked Mr. Douglas if he considered calling the Planning and Zoning staff when he sees dumping within the wetlands. Mr. Douglas replied that he did not become concerned until he thought about potential impacts to the wetland and underground springs. Ms. Cameron noted that the photographs were taken during the spring, and that the area is now has dense foliage so it is difficult to tell if it has been cleaned or not.

Mr. Douglas reported that the Club steam cleans toxic and petrol chemicals off of vehicles onto the ground, and requested that a chemical study of the soils be conducted. Mr. Hillman asked Mr. Ferlow if he looked at the property. Atty. Pierson said that he ordered an environmental study approximately three weeks prior to the meeting. Mr. Hillman said that the need for such a report was another reason to continue the hearing. Ms. Cameron said she would like to review a map showing the well locations. Atty. Pierson said the Club, under its application, was trying to correct problems with the maintenance area and move the building back further away from the wetlands. He explained that the existing conditions are grandfathered, and that the dumpster would remain.

Mr. Douglas said he was concerned about the chemicals stored on the property. Mr. Hutchison asked Mr. Douglas if want to make sure the project is done with environmental awareness. Mr. Hillman said that contamination could be a problem down the road. Ms. Cameron asked if Mr. Douglas had his well water tested. Mr. Douglas replied that he did not when he had own the adjacent residence but that the new owner is complaining about discoloration. Ms. Cameron recommends that he does. Atty. Pierson said that the Club would require more time to receive the chemical soil review and the stormwater drainage report. He said that the drainage report would be available the following week. Mr. Hillman said the application should ameliorate existing site problems. Atty. Pierson stated that the new facility is bound by new regulations and state requirements for chemical storage. Mr. Hillman said that this was an appealing part of the application, and then requested that the applicant inform Ms. Sarnier when the stormwater drainage report and chemical soil report would become available so that the agenda for July 21, 2004 could be confirmed.

Mr. Douglas expressed concern about the Club's irrigation system, stating that the new owner of his former property said that the water pressure is low due to the Club's well water use.

Ms. Cameron explained that the Club is discussing such issues with the State through the diversion permit process. Mr. Douglas said that the pressure is low all of the time. Mr. Hillman told

Mr. Douglas that since he sold the house, he no longer has standing to raise issues regarding it. Atty. Pierson reported that the wells on Brookside Road are fed by a different aquifer than used by the Club for its irrigation system.

The Commission continued the Public Hearing for Wetland Permit #EPC-37-2004 to the July 21, 2004 meeting.

Chairman Hillman explained that he wanted to call one application out of order to open the hearing and continue it as a courtesy to the applicant and his representatives so they would not need to sit through the rest of the applications, and read the following agenda item:

EPC-53-2004, Friends of Goodwives River, Hope Pond in the Goodwives River, proposing pond dredging, installation of a stone weir, repair of a stone retaining wall, fill activity, habitat restoration, and perform related site development activities within regulated areas. Hope Pond is located on the north side of Overbrook Lane, adjacent to roadway, approximately 130 feet west of the intersection of Rabbit Lane and Overbrook Lane, shown on Tax Assessor's Map #10 as Lots #7, 8, 8C, 8A & 9;

Chairman Hillman explained that the Goodwives River Watershed Management Plan by Fuss & O'Neill, Inc., dated February 2004, had been submitted into the application record on Monday, June 15, 2004, and therefore enough time was not given for the EPC and the public to review the ±400-page document.

Richard Windels, President of the Friends of Goodwives River (FOGR), said that he had originally wanted to have all the pond applications heard during one meeting, and that he now has all the approvals in place for the dredging of Hope Pond, Katy's Pond and Upton Pond. He explained that FOGR wanted to begin the work in July.

Mr. Windels complained that he had submitted the Commission's copies of the Goodwives River Management Report, in CD format, to the Planning and Zoning Office approximately two months ago. He said that he had provided ten copies of the CD to the Town, one of which was to go to First Selectwoman Evonne Klein. Ms. Sarner clarified that a paper copy of the report was submitted as part of application file EPC-53-2004 on Monday, June 15, 2004, and that, without that submission, the Commission could not consider material that is not part of the public application file. She went on to say that Ms. Klein received a CD copy pursuant to Mr. Windels' request to Ms. Sarner to distribute the report, and that within this written request, Mr. Windels had clearly stated that that the draft document could not be shared with anyone not on the distribution list. Ms. Sarner noted that Chairman Hillman was the only EPC Member on the distribution list. Ms. Sarner then reiterated that the file copy of the plan was received three days before the June 17, 2004 hearing, and therefore, could not have been considered by the EPC as part of application EPC-53-2004 prior to that date. Mr. Hutchison and Mr. Hillman cautioned Mr. Windels that procedures must be followed in order to establish a sound record.

Mr. Windels announced that he wished to withdraw the Goodwives River Watershed Management Plan from the application file. Mr. Hillman stated that it was Mr. Windels decision, and recommended that hearing be continued later that night, returning the FOGR application to its original position on the agenda.

Chairman Hillman read the following agenda item:

EPC-41-2004, Robert & Debra Lee, 8 North Road, requesting a determination of regulatory authority, and proposing the demolition and reconstruction of a single-family residence, patio, regrading and fill, installation of a septic system, and perform related site development activities within a regulated area. The property is located on the east side of North Road approximately 375 feet northeast of the intersection of North Road and Butlers Island Road, shown on Tax Assessor's Map #67 as Lot #74.

Atty. Wilder Gleason presented the application to the Commission and was joined by Mr. and Mrs. Lee, property owners, Robert Cardello, Architect, Todd Ritchie, P.E., and Donald Ferlow, L.A. and P.W.S.

Atty. Gleason stated that he objected to the EPC's exercise of jurisdiction over the property. Ms. Sarner said that she had not yet received a letter from the State regarding the right of an inland wetlands commission to exercise jurisdiction within the tidal reaches of watercourses. Mr. Hillman noted that the Commission received Atty. Gleason's objection during the last meeting, and that Ms. Sarner's letter to the State included Atty. Gleason's written objection. He said that Mr. Tessitore had informed Ms. Sarner that the EPC could exercise jurisdiction, and the Commission could wait to hear application. He said that Atty. Gleason had noted that past projects at nearby properties have not been reviewed by the Commission, but that the current EPC is more literal in its interpretation of the regulations, and would review the application on its merits.

Atty. Gleason informed the Commission that he represented the Lees in the purchase of the property, and that, at that time, they verified they could get a five-bedroom house on the site. He said that the water body is labeled as a river on the plan, but that it is tidal. He said that the developed area of the site is located upland of that is the masonry wall, which defines the coastal resources and upland area. He reviewed the zoning setbacks, which are encroached upon by the existing residence. He stated that the garage has two bay openings, but that four cars can be parked in tandem. He reviewed that the property ranges from elevation 24' in front to elevation 4', down to Mean High Water. He said that the driveway would be located over ledge. He reviewed the original proposed plan, explaining that the teardown and reconstruction of the residence would meet zoning setbacks. He explained that the area for the septic system is limited. He said that tests indicated that they could build a five-bedroom residence only, as the site cannot accommodate six-bedroom septic, although desired by the owners. He said that runoff flows from the crest of the property to a catch basin and neighboring properties. He said that the outlet of the catch basin could not be determine after dye testing, and that there had been concern that it would flow toward the existing system. Atty. Gleason Plan said that they would install a pipe, which would be approximately 70' from the river, to the outlet structure, and that weep holes would be installed within the masonry wall to continue overland flow. He said they

initially planned for the septic galleries and a third car bay, but omitted the third car bay under the June 2, 2004 plan, which gave them more flexibility with the design.

Mr. Ritchie explained that the septic galleries are ready-made concrete units that can be placed under the driveway and have been approved by the Health Department. Atty. Gleason said septic system would be more than 100' from the Five Mile River. The River's setback for subsurface sewage disposal systems is 200'. Mr. Ritchie said that the system would be 25' from catch basin but the basin would be sealed to prevent groundwater from entering the basins located within the roadway and driveway. He noted that the system was originally proposed 70' from the river.

Atty. Gleason said that they would take what was once a wet area and allow sheet flow through the weep holes in the wall. He reviewed photographs of existing site conditions, including the retaining wall and the proposed septic areas. He said that they are not proposing work below the wall, and that the proposed closest point, the extension of the existing terrace around the pool, would be approximately 65' from the Mean High Water line.

Mr. Hillman asked if anyone from the public wished to address the Commission regarding the application. Having no response, Mr. Hillman continued the Commission's discussion. Mr. Hillman opined that he was happy with the changes made to the initial application submission and the effort made to preserve the ledge. He said that the ledge is a natural resource, as well as an aesthetic feature of the property, that should not be lost. Atty. Gleason said that the changes were made after discussions with Mr. Ferlow and the Lees. Ms. Cameron agreed with Mr. Hillman. Atty. Gleason noted that the ledge is located outside the EPC's jurisdiction. Mr. Hillman stated that this was understood.

Ms. Sarner reminded the Commission that they requested receipt of State DEP's letter within the application record. Atty. Gleason consented to leave the hearing open in order to receive the letter. Mr. Hillman acknowledge this and noted that Ms. Sarner's memorandum regarding her discussion with Mr. Tessitore would be in the meeting record.

Mr. Hillman said that the applicants came to the EPC with an ambiguity regarding jurisdiction. Atty. Gleason said that he did not file the request for review to create work but to address a question that arose after discussion with Planning and Zoning staff. Mr. Hillman explained that the EPC would continue to review the question of jurisdictional limits within waterways, and consider updating the regulations accordingly. Atty. Gleason said that so many projects along the lower, tidal reaches of Five Mile River have not gone through the EPC for permit review, and that he feels that the EPC should review freshwater waterways, not brackish. Mr. Hillman said that if the EPC decides to assert jurisdiction for the Lee property, he sensed from the discussion the application would most likely be approved.

It was the consensus of the Commission that the Public Hearing for #EPC-41-2004 be closed, except to receive into record the letter regarding commission jurisdiction from the State DEP.

Chairman Hillman read the following agenda item:

EPC-52-2004, Darien Board of Education, 80 High School Lane, Proposing to install a synthetic turf multi-use athletic field and running track and perform related site development activities within a regulated area. The property is located north side of High School Lane approximately 1,200 feet west of the intersection of High School Lane and Middlesex Road, shown on Tax Assessor's Map #8 as Lots #80 & #81.

Paul Engemann introduced the application to the Commission, and was joined by Bob Golde, L.A., Joe Canas, P.E., and John Anderson, Environmental Consultant.

Mr. Hillman asked if anyone involved with the fund raising for the turf field was present. Rusty Shriner of 79 Delafield Island Road introduced himself, and said he helped head the efforts. Mr. Hillman said that he was amazed by the amount of funding raised, and that it is a testament of public spirit of this time. He expressed concern, however, that the group had always run the risk that they may not receive all approvals necessary to proceed. Mr. Shriner said that if they received a denial for the wetland permit request, they would correct any problem and return. Mr. Hillman said it puts the EPC in a tight spot. Mr. Shriner said that as a worse case, the Board of Education could return with a new application proposal. Mr. Hillman said that he wanted it to be known that the fund raising efforts are appreciated, but that it would have been better to receive approval prior to soliciting money. Ms. Cameron agreed, and that she became aware of the project because her sister's children play sports. She said that she did not know about the fund raising, but that the project would require wetland permit review. She also stated the acquiring the funding first puts the Commission in a bad position. Mr. Hutchison said that they would have no reason to apply for approval if the project was not financially feasible. Ms. Cameron said that she recognizes that the funding is necessary but that it may have been out of sequence.

Mr. Hillman asked the applicant's representatives to address impacts. Mr. Hutchison asked that a review of the benefits of artificial turf over grass fields be included. Ms. Miller noted that one benefit is that the synthetic turf does not require fertilizers. Mr. Hutchison clarified that he was interested in environmental benefits, such as the example given by Ms. Miller.

Mr. Engemann explained that the field's usage and carrying capacity could be increased, and more games could be scheduled and spaced out over a longer period. He said that the field would be increased in size. The existing field is for football only and would be increased to a multipurpose field. He said that the existing grass field requires a ton and a half of fertilizers, which would not be need with the synthetic field. He said that the painted lines on the existing field must be frequently reapplied, but that the synthetic field would have permanent lines that require less touch-ups.

Mr. Canas, project engineer, informed that Commission that he is also the site engineer for the construction of the new Darien High School. He said that he tied the drainage study for the synthetic turf field into the study conducted for the new high school. He reviewed the wetlands, setbacks and Stony Brook. He said that, in the hydrologic model, existing and proposed conditions were compared and he found that there is no increase in runoff from the field construction. He explained that the proposal included the removal of an existing 10" pipe and associated headwall, which project into Stony Brook, causing sediments to collect.

Ms. Cameron noted that the drainage study shows identical numbers for existing and proposed conditions. Mr. Canas replied that the study area is so large that any change from the turf field would be insignificant. He explained that there are slight differences in the runoff, and a slight reduction at the northern outlet. He noted that the synthetic turf field would be permeable. Mr. Hutchison stated that the proposed field would act as a dry well. Ms. Cameron asked what changes are seen for a 50-year storm event. Mr. Canas replied that there is no net increase in stormwater runoff for a 50-year or 100-year storm event. Mr. Hutchison explained that impact was not found because stormwater runoff would leave the site ahead of the peak stormwater flow. Mr. Canas corroborated Mr. Hutchison's explanation, and added that a reservoir would be created beneath the field, consisting of 8" underdrains with two pipes that would converge into the 18" pipe leading to the headwall. He said that scour would be prevented with the installation of energy dissipaters, and that they would match the location of the existing outlet. Mr. Hillman asked if it would be better to direct the outlet downstream to decrease erosion. Mr. Canas replied not necessarily, because the dissipaters would be installed. Ms. Cameron said that, in the past, the Commission had requested outlets into waterway be placed at an angle. She noted that the pipe would be increased from 10" to 18". Mr. Canas said that the replacement pipe would meet the new design standards, and was designed for a 25-year storm. Ms. Cameron said that the channel would be grass lined, and reviewed the runoff coefficient for grass. She then asked if the grass would be mowed. Mr. Canas said that the area would be maintained to promote flow, and that 4" to 6" grass height would remove suspended solids, and the total suspended solids (TSS) found in the runoff from the field would be from the air and foot traffic. Ms. Cameron asked how they planned to clean the riprap dissipaters. Mr. Canas replied that Mr. Engemann could submit a maintenance schedule and plan. Mr. Engemann explained that he would work with the experts to develop a maintenance schedule, and could use a town machine to maintain the area. Mr. Anderson said not a lot of sediments are usually transported with these types of synthetic turf systems. He said that the Commission should also take into consideration the cessation of the use of pesticides and herbicides, as well as the decrease sediments from the surface runoff. The TSS would decrease in stormwater runoff. Mr. Anderson reported that he was involved in the installation of three similar fields at the Granger Academy in Greenwich, and that within one year of the field installation, downstream blooms were cleaner.

Mr. Hillman stated that the safety aspect of the synthetic turf field is a benefit, as it would be safer for athletes.

Mr. Engemann showed a sample of the field, and explained that it is designed to soften impact and would not catch the athletes' cleats. He said that installation would start with gravel base to support the carpet of polyethylene tufts. He stated that the back matting of the "carpet" is permeable. He said that the infill materials would not get into the drainage system. The bottom would consist of sand, and then a layer of sand/rubber infill mix covered by a rubber infill mix. He said that metal cleats would not be used on the field.

Ms. Miller asked how the field would be maintained. Mr. Engemann said that a machine comes with the synthetic turf system for monthly rakings. He explained that some infill might shift, but would be even out by grooming. He said that the field would not lose the infill. He said that the section of the field could be patched, as needed, and that it comes with a minimum ten-year warranty. The turf would be replaced upwards of twelve years, and a longer period to replace the infill. He added that the infill could be removed by vacuuming when it is time for

replacement. Mr. Engemann said that the Board of Education wanted this type of field because no perforation of the synthetic carpet and reliability of the firm. Mr. Hillman noted that the Town is not a test subject for the company. Mr. Engemann replied that there is more of this type of field around the world than other types of synthetic turf. He said that New Canaan uses AstroTurf, but Greenwich has similar fields.

Ms. Cameron noted that the report mentioned an infiltrator. Mr. Canas said that the stone drainage system would be installed beneath the field. The system would hold water and infiltrate into the subgrade. Ms. Miller asked if there would be 2" of materials between the pipe and the turf. Mr. Engemann replied that there would be 2" of stone dust.

Ms. Cameron reported that she is unhappy with the upkeep of mitigative measures for the high school construction project. Mr. Canas said that the contractor must be persistence with maintenance. Ms. Cameron recommend that the roads be cleaned and swept. Mr. Canas referred to notes on proposed sediment and erosion control measures. Ms. Cameron asked for assurance that maintenance for the mitigative controls would be done for the field project. Mr. Engemann said that he will be the direct project manager and would be there daily, and that he would retain the services of Tighe & Bond for field inspection. He explained that the project is short in length, lasting only three to four weeks. Ms. Miller said that the school construction is long, ongoing project. Ms. Cameron cautioned that the field work could contribute to any problems in the waterway.

It was the consensus of the Commission that the Public Hearing for Wetland Permit Application #EPC-52-2004 be closed.

Chairman Hillman read the following agenda item:

Continuation of EPC-53-2004, Friends of Goodwives River, Hope Pond in the Goodwives River, proposing pond dredging, installation of a stone weir, repair of a stone retaining wall, fill activity, habitat restoration, and perform related site development activities within regulated areas. Hope Pond is located on the north side of Overbrook Lane, adjacent to roadway, approximately 130 feet west of the intersection of Rabbit Lane and Overbrook Lane, shown on Tax Assessor's Map #10 as Lots #7, 8, 8C, 8A & 9;

Richard Windels confirmed that he withdrew the Goodwives River Watershed Management Plan from the application file, EPC-53-2004. He said that the management plan was submitted to the Town not as part of the application but as a reference for the Commission. He said that the plan was not necessary for the Commission's review of the Hope Pond dredging application. He said that he submitted the plan in CD format to save paper and three printed copies were submitted for the pending application files for Hope Pond, Katy's Pond and Upton Pond. He said he had hoped that the CD copies would suffice for the Commission members' use, and that he wanted the EPC to be familiar with the watershed management plan. Mr. Hillman explained to Mr. Windels that all materials submitted for EPC consideration as part of a permit application must be available to the public as well. Ms. Sarnier informed the Commission that Mr. Windels initially submitted multiple CD copies of the plan, prior to the submission of the current application, with a list of specific people who could receive the CD, requesting that it was not be shared with the public or anyone not on the distribution list. She added that, since the hardcopies

have been received, the management plan could be part of the application files for the Katy's Pond and Upton Pond dredging projects. Mr. Kenyon recommended that a copy be made available at the library. Mr. Windels asked that the EPC provide comments regarding the draft watershed management plan. Mr. Hillman agreed with Mr. Kenyon's recommendation that the plan be available at the library, and explained that the EPC is not formally bound by the plan. Mr. Windels said that the EPC could use it for reference for any future pond restoration projects, and suggested that it be shared with Darien and Stamford regarding Holly Pond.

Mr. Hillman asked the applicant how the current application for the dredging of Hope Pond differed from the application filed for the Goodwives Watershed Management Initiative, EPC-66-2003, which proposed the dredging of Hope Pond, Katy's Pond, Upton Pond and Upper Pond within the Goodwives River. Mr. Windels said that fill activity discussed within the application was not proposed. Phil Moreschi of Fuss & O'Neill said that the current project is not different from work activity proposed for Hope Pond under EPC-66-2003. He explained that the application documents propose fill, but that the plan specifies that it is not part of the project. Mr. Hutchison asked why FOGR refiled for a wetland permit if the work is not different than Permit Approval #EPC-66-2003. Mr. Windels replied that the decision for EPC-66-2003 has been appealed by Hart Investments, and that he felt that the Town has not defended it. Ms. Sarner explained that the appeal has appeared on a court docket, and that the Town is wholly defending the EPC's decision. Mr. Windels said that the current application makes the appeal moot because he feels that Hart Investments has no standing to file an appeal against its approval.

Mr. Hutchison asked if any of the four ponds involved in the Goodwives River Management Initiative were worse than the others. Mr. Windels replied that he did not believe so except that the Upper Pond dam has continued to erode. He said that FOGR is considering dredging the northern extent of Gorham's Pond when it dredges Upper Pond.

After being recognized by the Chair, Eleanor Massie of 5 Overbrook Lane and Dr. Armiger of 10 Overbrook Lane addressed the Commission, stating that they were very much in favor of the proposed application.

Mr. Moreschi explained that FOGR planned to begin work in July 2004. He said that the next applications for the Goodwives River, which propose the dredging of Katy's and Upton Ponds, are scheduled for the July 7, 2004 EPC meeting.

Mr. Hillman stressed that the Town has always intended to defend to the hilt the EPC decision for EPC-66-2003.

Mr. Windels asked if the approval of the current application would void Wetland Permit #EPC-66-2003. Mr. Hillman and Ms. Sarner replied that the permit would still be valid.

Mr. Moreschi noted that the work dates proposed within the application, "August to September 2003," should be changed to "August to September 2004."

The Commission closed the public hearing for Wetland Permit Application #EPC-53-2004.

The public hearing was closed and the Commission moved on to other meeting business.

Discussion and Possible Decision for EPC-13-2004, Kurt & Claire Locher, 19 Meadowbrook Road, proposing installation of an inground pool, deck expansion, installation of a hot tub, and perform related site development activities within a regulated area. The property is located on the side of east side of Meadowbrook Road, approximately 1,010 feet east of the intersection of Meadowbrook Road and Brookside Road, shown on Tax Assessor's Map #14 as Lot #9.

Upon discussion and consideration of the application file, the following resolution was adopted:

TOWN OF DARIEN
ENVIRONMENTAL PROTECTION COMMISSION
PERMIT TO CONDUCT A REGULATED ACTIVITY

EFFECTIVE DATE: JUNE 17, 2004
EXPIRATION DATE: JUNE 17, 2009

Application Number: EPC-13-2004

Applicant's Name and Address: Kurt & Claire Locher
19 Meadowbrook Road
Darien, CT 06820

Property Address of Proposed Activity: 19 Meadowbrook Road
Darien, CT 06820

Proposed Activity: Construction of deck and hot tub, and perform related site development activities within a regulated area; consideration of existing, unauthorized playhouse located within the front wetland area for an after-the-fact permit. The proposed swimming pool has been withdrawn by the applicant.

Shown on Tax Assessor's Map #17 as Lot #9.

The Environmental Protection Commission has considered the application with due regard to the matters enumerated in Section 21a-41 of the Connecticut General Statutes as amended and in accordance with Section 10 of the Inland Wetlands and Watercourses Regulations of the Town of Darien, and has found that the proposed work is in conformance with the purposes and provisions of said sections.

This authorization refers to the application to conduct regulated activities within and adjacent to inland wetlands and a waterway within the Town of Darien. The Commission has conducted its review and findings on the bases that:

- In issuing this permit, the Commission has relied on the applicants' assurances, and makes no warranties and assumes no liability as to the structural integrity of the design or any structures, nor to the engineering feasibility or efficacy of such design.
- In evaluating this application, the Environmental Protection Commission has relied on information provided by the applicants. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, after interested parties have had an opportunity to be heard at a duly noticed public hearing this permit shall be modified, suspended or revoked by the Commission.

The Environmental Protection Commission met for a general meeting for the application on March 3, 2004, and a public hearing for the application on April 7, 2004, May 5, 2004, and May 19, 2004. During the EPC's meeting and hearing, the applicants' representatives presented information explaining the project and provided answers to concerns and questions raised by the Commission, Commission staff and the general public. The general public, including nearby property owners, was provided an opportunity to express their opinions and comment regarding the proposed development.

Following careful review of the submitted application materials and related analysis, the Commission, all of whose members are fully familiar with the site and its surroundings, finds:

A. APPLICATION PROJECT DESCRIPTION

The application originally proposed the construction of an inground swimming pool, deck and hot tub within regulated wetland setback areas. The proposed pool would be located $\pm 26'$ from the wetlands, and would be surrounded by a large patio. The patio would be located $\pm 23'$ from the wetlands and would extend east to adjoin the proposed deck. The deck was proposed on the northeast corner of the residence, $\pm 31'$ from the wetlands. The hot tub would be set upon the new deck, $\pm 33'$ from the wetlands.

After the May 5, 2004 public hearing, the applicant reduced the scope of her project and presented a revised plan, revision date May 12, 2004, during the public hearing on May 19, 2004. The plan eliminated the pool and surrounding patio. The proposed deck was shifted south, and extended to connect with the existing southern deck. It would be $\pm 21'$ from the wetlands. The hot tub was moved to the center of the revised deck, and would be $\pm 40'$ from the wetlands.

During the May 5, 2004 and May 19, 2004, the Commission considered the existing, unauthorized playhouse located within the front wetland area for an after-the-fact approval.

B. SITE DESCRIPTION

The ± 1.3 -acre residential property has been developed with a single-family residence within the approximate center of the lot. The property is highly regulated with little upland area not located within regulated setback areas. The house is border on the west, north and south by wetland soils. Tokeneke Brook crosses the property near the western property line.

C. HEARING PRESENTATIONS AND RECORD

1. Final Proposed Survey – “Zoning Location Survey Prepared for Claire B. Locher, 19 Meadowbrook Road, Darien, Connecticut” by William W. Seymour & Associates, P.C., dated April 12, 2004, last revised May 12, 2004.
2. Original Proposed Survey – “Zoning Location Survey Prepared for Claire B. Locher, 19 Meadowbrook Road, Darien, Connecticut” by William W. Seymour & Associates, P.C., dated April 12, 2004.
3. Original Proposed Plan – Sketch of Pool and Hot Tub overlaid on the plan entitled “Map Prepared for A. Ernest Bothwell and Jean Bothwell, Darien, Connecticut” by William W. Seymour Land Surveyors, dated January 23, 1992, revised July 22, 1992.
4. Drainage Report – “Drainage Report: Locher Property, 19 Meadowbrook Road, Darien, Connecticut” by John R. Martucci, P.E., dated April 27, 2004.
5. Application for Permission to Conduct a Regulated Activity within an Inland Wetland or Watercourse Area within the Town of Darien, signed by Claire Locher, 2/11/04, with narrative.
6. May 5, 2004 Letter of Extension, signed by Claire Locher.
7. Letter to Claire Locher from Nancy H. Sarner, Environmental/GIS Analyst, dated February 18, 2004
8. Letter to Kurt & Claire Locher from Nancy H. Sarner, Environmental/GIS Analyst, dated March 12, 2004.
9. Letter to the Environmental Protection Commission from Kurt & Claire Locher, dated April 21, 2004.
10. Letter to John Martucci, P.E., from Nancy H. Sarner, Environmental/GIS Analyst, dated May 6, 2004.
11. Proof of Mailing for Notices to Neighbors, received by the Planning and Zoning Office on April 21, 2004.
12. Table – Mailing List for 19 Meadowbrook Road, Neighbors within 100 Feet of Project Area, dated 3/12/2004.
13. Site History Table for past EPC Permit Applications for 19 Meadowbrook Road.
14. Site History – July 30, 1993 letter of approval for Permit #EPC-15-93. Letter is addressed to Mr. A. Ernest Bothwell from David S. Kvinge, Assistant Planner.

15. Site History – Map of 19 Meadowbrook Road showing approved deck, edge of lawn and retaining wall. Overlaid on the plan entitled “Lot 9, Map Prepared for Kurt A. Locher & Claire B. Locher, Darien, Connecticut” by William W. Seymour Land Surveyors, dated July 16, 2004.
16. Site History – “Revised Site Plan” by Environmental Design Associates, Rev. 4-14-87, from file for Permit #EPC-8-1987 for the approval of a single-family residence.
17. Site History – “Soils Report, Estate of David Gregg, Jr. Darien, Conn.” By Soil Science Services, dated June 4, 1982.

D. ITEMS/ISSUES OF CONCERN TO THE COMMISSION

1. Review of Prudent and Feasible Alternatives

The Commission finds that the useable land on the property is limited due to the amount and location of wetlands and associated regulated setback areas. It therefore appreciates the plan revisions provided by the applicant in an attempt to reduce impact and disturbance to the wetlands, and to address the concerns expressed by the Commission during the May 5, 2004 public hearing. The Commission finds that the raised deck and hot tub, as revised, represent a prudent design alternative to the original proposal.

The Commission considered the existing unauthorized play structure and associated activities located directly within the wetlands, and has determined more prudent and feasible alternate location(s) are available to the applicant for the structure.

2. Impact to Wetlands and Watercourses

In carrying out its duties, the Commission has taken into consideration the standards established under the state and local regulations, and finds that the modified proposal, i.e., the withdrawal of the pool and surrounding patio, does not pose a significant impact or major effect upon the wetlands. However, it has determined that the existing unauthorized play structure, with its associated activities directly within the wetlands are unsuitable and poses unmitigated impact to the resources.

3. Drainage

The Commission reviewed reports and heard testimony from the applicant's engineer, John R. Martucci, and the amended plan that eliminates the pool and large surrounding terrace. The Commission finds that the modified proposal does not pose a significant increase to impervious area and surface runoff.

E. DECISION

The Commission hereby approves the applicant's amended wetland permit application request, subject to the following stipulations:

1. This is a conditional approval. Each and all of the conditions herein are an integral part of the Commission's decision.
2. The Commission approves the construction of the rear deck and installation of the hot tub. The work activity shall be conducted in accordance with the revised plans, entitled "Zoning Location Survey Prepared for Claire B. Locher, 19 Meadowbrook Road, Darien, Connecticut" by William W. Seymour & Associates, P.C., dated April 12, 2004, last revised May 12, 2004.
3. The applicant has withdrawn the proposed pool and surrounding patio, and therefore these structures are not part of this approval.
4. The Commission denies the after-the-fact permit request for the existing, unauthorized play house, as other more prudent and feasible alternatives are available, including locating the structure in the rear yard outside the regulated 50' setback and wetland areas.
5. The work and regulated activities are limited to that which is approved, and shall be consistent with the terms and conditions of this permit. Prior to implementation, any possible revisions to the plans must be submitted to and reviewed by the Planning and Zoning Office in accordance with Section 7.8 of the Inland Wetlands and Watercourses Regulations to determine conformance to this approval, and may require an amendment approval by the Environmental Protection Commission. Any clearing, excavation, fill, obstructions, encroachment or regulated activities not specifically identified and authorized herein shall constitute a violation of this permit and may result in its modification, suspension or revocation. Upon the initiation of the activities authorized herein, the permittee would thereby accept and agree to comply with the terms and conditions of this permits.
6. Tree protection fencing shall be installed at the critical root zone of trees that are to be preserved along the construction access and within the construction area upland of the stonewall, whenever possible. The critical root zone can be determined by multiplying the diameter at breast height (dbh) by 1.5'. The dbh is measured 4.5' from the ground. (For example, a tree with a diameter of 30" will require a critical root zone radius of 45 feet.) The minimum radius for protective fencing shall be 10'. The fencing must be at least 4' in height. If access does not allow for the protective fencing to be installed at the critical root zone, it shall be installed as far from the trunk as possible, or wrapped around the trunk to protect the bark.
7. All sediment and erosion controls shall be installed prior to the commencement of any work activity as shown on the May 12, 2004 plan by William W. Seymour & Associates. The bottom of the silt fence shall be buried a minimum of 6" into the soil and shall be backfilled with suitable material. All controls must be inspected daily by the permittee or their

representative. Any sagging, undermining, or damage to the silt fence or construction barrier must be repaired immediately.

8. The permittee shall notify the Environmental Protection Commission staff after the sediment and erosion controls and protective tree fencing are in place. The staff will inspect the erosion controls and protective fencing to make sure that they are sufficient and as per plan
9. Sediment and erosion controls shown on the plans shall be maintained throughout the construction process and shall only be removed when the disturbed areas have been adequately re-stabilized with suitable vegetation.
10. The permittee shall notify the Environmental Protection Commission immediately upon commencement of work and upon its completion.
11. No equipment or material, including without limitation, fill, construction materials, debris, or other items shall be deposited, placed or stored in any wetland or setback area on or off site unless specifically authorized by this permit.
12. This permit does not relieve the applicant of their responsibility to comply with all other applicable rules, regulations, and codes of other Town agencies or other regulating agencies.
13. The duration of this permit shall be five (5) years and shall expire on the date specified above. All proposed activities must be completed and all conditions of this permit must be met within one (1) year from the commencement of the proposed activity.

The motion was made by Mr. Hillman, seconded by Mr. Hutchison, and unanimously approved.

EPC-26-2004, Thomas Cornacchia, 17 Holly Lane:

Chairman Hillman informed the Commission that Mr. Cornacchia has filed an appeal of the partial approval/partial denial of his permit application request, #EPC-26-2004. Commission staff will send copies of the appeal to the Commission members.

Adjournment: Having no further business to attend to, the Commission adjourned the June 2, 2004 meeting at approximately 10:00 p.m.

Respectfully submitted,

Nancy H. Sarner
Environmental/GIS Analyst